

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

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DISTRICT OF MASS.
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FEDERAL DISTRICT
COURT
DISTRICT OF MASS.
DOCKET #04-11517 WGY

CLAIRE GAGNE,
Plaintiff

V.

J.C. PENNEY COMPANY INC.,
Defendant

AMENDED
COMPLAINT

NOW comes the Plaintiff, Claire Gagne, and she amends her Complaint, and
alleges the following as causes of action:

COUNT ONE

1. The Plaintiff, Claire Gagne, is domiciled at 15 Heritage Drive, Apt. 31, Salem,
Essex County, Massachusetts.
2. The Defendant, J.C. Penney Company Inc., is a Delaware Corporation with a
principal place of business at 6501 Legacy Drive, Plano, Texas.
3. The Defendant, J.C. Penney Company Inc., is subject to personal jurisdiction in
this Commonwealth under Massachusetts General Laws, Chapter 223A, Section
3.

4. At all times herein mentioned, the Defendant, J.C. Penney Company, Inc., has maintained a usual place of business at 210 Andover Street, Peabody, Essex County, Massachusetts.
5. On or about December 29, 2002, the Plaintiff, Claire Gagne, was a patron of J.C. Penney Co. Inc., located at 210 Andover Street, Peabody, Essex County, Massachusetts.
6. On or about December 29, 2002, the Defendant, J.C. Penney Company Inc., negligently failed to keep their premises safe for patrons, and use reasonable care in allowing a stocking rack to remain in the middle of an isle in the Womens Department of their store, after the store was open for business.
7. The stocking rack, aforesaid mentioned, is an oversized rack at the bottom, and presented an unreasonably dangerous tripping hazard for patrons walking in the isle.
8. As a direct and proximate result of the aforesaid negligence of the Defendant, the Plaintiff tripped and fell over the stocking rack, causing severe personal injury to the Plaintiff.

9. As a direct and proximate result of the aforesaid negligence of the Defendant, J.C. Penney Co. Inc., the Plaintiff, Claire Gagne, has incurred great pain and suffering and mental anguish, all to the Plaintiff's damage.
10. As a direct and proximate result of the aforesaid negligence of the Defendant, and the aforesaid injuries of the Plaintiff, Claire Gagne, the Plaintiff was placed under the care of a physician, has incurred medical expenses, and will continue to incur medical expenses.

WHEREFORE, the Plaintiff, Claire Gagne, prays for judgment against the Defendant, J.C. Penney Co. Inc., together with interest and the costs of this action, and for such other further relief as the Court may deem proper.

COUNT TWO

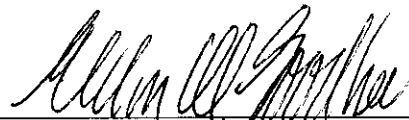
11. The Plaintiff, Claire Gagne, repeats, reavers and realleges the allegations contained in Paragraphs 1 through 10 above, and incorporates them herein by reference.
12. On or about December 29, 2002, the Defendant, J.C. Penney Co. Inc., negligently failed to warn the Plaintiff and others of the dangerous tripping hazard existing in the isle where Plaintiff was injured.

13. As a direct and proximate result of the aforesaid negligent failure of the Defendant, J.C. Penney Co. Inc., to warn the Plaintiff, Claire Gagne, the Plaintiff has incurred great pain and suffering and mental anguish, all to the Plaintiff's damage.
14. As a direct and proximate result of the aforesaid negligent failure to warn of the Defendant, J.C. Penney Co. Inc., and the aforesaid injuries of the Plaintiff, Claire Gagne, the Plaintiff, was placed under the care of a physician, has incurred medical expenses, and will continue to incur medical expenses.

WHEREFORE, the Plaintiff, Claire Gagne, prays for judgment against the Defendant, J.C. Penney Co. Inc., together with interest and the costs of this action, and for such other further relief as the Court may deem proper.

Dated: July 15, 2004

For the Plaintiff,
Claire Gagne,
By her attorneys,
Law Offices of Eldon D. Goodhue, PC



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